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Attorneys for Plaintiff and the Settlement Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ARTIE LASHBROOK, and all others similarly
situated,

Plaintiff,

vs.

CITY OF SAN JOSE,

Defendant.

CLASS ACTION

Case No.: 5:20-cv-1236-NC

**DECLARATION OF LINDA M.
DARDARIAN IN SUPPORT OF JOINT
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT, AND
STATEMENT OF COMPLIANCE WITH
NOTICE REQUIREMENTS**

Date: September 2, 2020
Time: 1:00 p.m.
Dept: Courtroom 5
Before: Hon. Nathanael Cousins

1 I, Linda M. Dardarian, declare as follows:

2 1. I am a member in good standing of the Bar of the State of California and a partner at the
3 law firm of Goldstein, Borgen, Dardarian & Ho (“GBDH”), in Oakland, California. I am lead counsel
4 for Plaintiff and the Settlement Class in this matter. I am providing this Declaration in support of the
5 Parties’ Joint Motion for Final Approval of Class Action Settlement and to demonstrate compliance
6 with the class notice requirements of the Court’s Order Granting Preliminary Approval of Class Action
7 Settlement, ECF No. 10. I have personal knowledge of the facts set forth in this Declaration and could
8 and would testify competently to them.

9 2. A true and correct copy of the fully executed Consent Decree, for which final approval
10 is sought by this Motion, is attached as Exhibit 2 to the Declaration of Linda M. Dardarian in Support
11 of Joint Motion for Preliminary Approval of Class Action Settlement, ECF No. 10-2 (filed on April 21,
12 2020) and is referred to herein as the “Settlement” or “Consent Decree.”

13 **FACTUAL BACKGROUND**

14 3. The full factual background supporting the Settlement is set forth in the Declaration of
15 Linda M. Dardarian in Support of Joint Motion for Preliminary Approval of Class Action Settlement,
16 ECF 10-1. Pertinent portions are reiterated herein below.

17 4. Parties negotiated the proposed Settlement over a six-year period beginning in February
18 2014. Over the first two and half years of negotiation, the Parties exchanged information regarding the
19 status of existing curb ramps in the City’s pedestrian right of way, the City’s past and present policies
20 concerning curb ramp construction and remediation, the legal obligations created by disability non-
21 discrimination laws, and the Parties’ settlement positions.

22 5. In November 2016, the Parties finalized an Interim Settlement Agreement that set forth
23 certain preliminary obligations while they continued to negotiate a full resolution of Plaintiff’s claims.
24 The Interim Settlement Agreement required the City to perform a complete survey of the City’s curb
25 ramps to identify all locations that were missing curb ramps and assess existing curb ramps for
26 compliance with applicable federal and state accessibility standards. The curb ramp survey was
27 divided into two phases: automated and manual. The automated portion of the survey was performed
28 using specialized optical equipment to determine the presence or absence of curb ramps at required

1 curb ramp locations. The manual portion of the survey involved on-site inspections of existing curb
 2 ramps to determine compliance with slope, surface, and other dimensional requirements. The Interim
 3 Settlement Agreement also required the City to construct approximately 2,700 curb ramps over a two-
 4 year period and resolve curb ramp requests within one-hundred twenty (120) days of submission.

5 6. The City completed its curb ramp survey in April 2018. It revealed that there were
 6 22,885 existing curb ramps within the City. 20,849 curb ramps, or 91% of all curb ramps within the
 7 City, were non-compliant with applicable disability access standards set forth in the 2010 Americans
 8 with Disabilities Act Access Standards (“2010 ADAS”) or Title 24 of the California Building Code
 9 (“Title 24” or “CBC”). The survey found that 6,772 curb ramps were missing from locations where
 10 they are required, and 14,611 existing non-compliant curb ramps contained “High Priority Curb Ramps
 11 Barriers.”¹ Another 6,238 curb ramps did not comply with federal and state accessibility standards but
 12 were not defined as “High Priority Curb Ramps Barriers.”

13 7. With the survey completed, the Parties had a clear view of the strengths and weaknesses
 14 of the relevant claims and defenses, and were able to make well-informed decisions about the
 15 Settlement’s terms. Accordingly, they proceeded to negotiate the Consent Decree that is presently
 16 before the Court for final approval. As a result of the Parties’ robust negotiations and cooperative
 17 information sharing, the Parties reached a settlement, the terms of which are set forth in the Consent
 18 Decree.

19 8. The last issue negotiated by the Parties was Plaintiff’s request for reasonable attorneys’
 20 fees, expenses, and costs. Only after resolving all class injunctive relief issues and then Plaintiff’s
 21 damages and service award payments did the Parties commence negotiations regarding Plaintiff’s
 22 reasonable attorneys’ fees, expenses, and costs. Accordingly, this eliminated the possibility of the
 23

24 ¹ “High Priority Curb Ramps Barriers” include the following: 1) locations that are missing curb ramps
 25 (missing curb ramps are in addition to the 14,611 existing non-compliant High Priority Curb Ramps);
 26 2) curb ramps with less than 32 inches clear width; 3) curb ramps with running slopes exceeding 10%;
 27 4) curb ramps with cross slopes exceeding 4%; 5) curb ramps with non-flush transitions; 6) curb ramps
 28 with counter slopes exceeding 10%; 7) curb ramps with side flare slopes exceeding 12.5%; 8) curb
 ramps with side flare slopes exceeding 10% where top landings are not provided; 9) curb ramps with
 gaps or vertical edges greater than 1 inch; 10) parallel curb ramps with bottom landings that have
 slopes exceeding 4%; 11) parallel curb ramps with top landings that have slopes exceeding 4%; 12)
 parallel curb ramps with top landings that have running slopes exceeding 10%; and, 13) curb ramps
 with a combination of non-compliant running slopes, counter slopes, and non-flush transitions.

1 payment of “excessive fees and costs in exchange for counsel accepting an unfair settlement on behalf
 2 of the class.” *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011).
 3 Furthermore, the agreed-upon attorneys’ fees, expenses and costs of \$725,253.09 are modest for a
 4 matter that has been pending for over six years.

5 9. On February 19, 2020, Plaintiff Artie Lashbrook filed this class action, asserting claims
 6 for injunctive relief against the City of San Jose based on alleged violations of the ADA, the
 7 Rehabilitation Act of 1973, California Government Code Section 11135, and the California Disabled
 8 Persons Act (California Civil Code Sections 54, *et seq.*). See Complaint, ECF No. 1.

9 SETTLEMENT NOTICE

10 10. The Court’s Order Granting Preliminary Approval of Class Action Settlement certified
 11 the Settlement Class pursuant to Federal Rule Civil Procedure 23(a) and (b)(2) and directed notice of
 12 the Settlement to the Settlement Class, among other things. ECF No. 14. Attached as **Exhibit B** to the
 13 Declaration of Stuart Kirkpatrick in Support of Joint Motion for Final Approval of Class Action
 14 Settlement and Statement of Compliance with Notice Requirements, filed herewith, is a true and
 15 correct copy of the Court-approved Notice of Proposed Settlement of Class Action Lawsuit
 16 (“Settlement Notice”), which explains the litigation and the terms of the Consent Decree, including the
 17 injunctive relief, release of claims, and amounts requested for Class Representative’s service award,
 18 damages payment, and Class Counsel’s requested attorneys’ fees, costs, and expenses. The Settlement
 19 Notice also informs Settlement Class Members regarding how to object to the Settlement Agreement.
 20 Further, it provides a toll-free number for Settlement Class Members to call to obtain further
 21 information about the Settlement or settlement documents.

22 11. On June 8, 2020, Class Counsel provided a copy of the Settlement Notice to thirty-three
 23 organizations that serve individuals with Mobility Disabilities. A list identifying these organizations
 24 was filed as Exhibit E to the Consent Decree, ECF No. 10-1. Further details regarding the distribution
 25 of the Settlement Notice to these organizations is set forth in the Declaration of Stuart Kirkpatrick in
 26 Support of Joint Motion for Final Approval of Class Action Settlement and Statement of Compliance
 27 with Notice Requirements, filed herewith.

1 12. On June 16, 2020, Class Counsel posted copies of the Settlement Notice in English,
 2 Spanish, and Vietnamese on the GBDH and CREEC websites, and they have remained posted since
 3 then. *See* GBDH website *available at* <https://gbdhlegal.com/cases/lashbrook-v-city-of-san-jose/> &
 4 CREEC website *available at* [https://creeclaw.org/notice-of-proposed-settlement-of-class-action-](https://creeclaw.org/notice-of-proposed-settlement-of-class-action-lawsuit-lashbrook-v-city-of-san-jose/)
 5 [lawsuit-lashbrook-v-city-of-san-jose/](https://creeclaw.org/notice-of-proposed-settlement-of-class-action-lawsuit-lashbrook-v-city-of-san-jose/). Each version of the Settlement Notice was formatted so that it
 6 could be recognized and read by software commonly used by individuals with visual impairments to
 7 read web pages. I am informed and believe that the notices comply with version 2.1 of the Web
 8 Content Accessibility Guidelines (“WCAG”) conformance level AA.

9 13. Class Counsel have been informed by Defendant City of San Jose (the “City”) that it
 10 has complied with the remainder of this Court’s preliminary approval order regarding the
 11 dissemination of the Settlement Notice. Further information regarding the posting and publication of
 12 the Settlement Notice is set forth in the Declaration of Elisa Tolentino in Support of Joint Motion for
 13 Final Approval of Class Action Settlement and Statement of Compliance with Notice Requirements,
 14 filed herewith.

15 **OBJECTIONS TO THE SETTLEMENT**

16 14. The deadline to object to the proposed Settlement was August 14, 2020. As of August
 17 28, 2020, no Settlement Class Member has objected to the Settlement.

18 **TERMS OF THE PROPOSED CONSENT DECREE**

19 15. Class Counsel are confident that the curb ramp work required by the Consent Decree is
 20 sufficient to provide a system of curb ramps that, when viewed in its entirety, will be readily accessible
 21 to persons with mobility disabilities. The Consent Decree includes the following negotiated and
 22 agreed-upon terms:

23 16. The Settlement Class, as set forth in the Consent Decree, is defined as follows: all
 24 persons (including residents of and/or visitors to the City of San Jose) with any Mobility Disability,
 25 who, at any time prior to the Court granting final approval of the Consent Decree, have been denied
 26 full and equal access to the City’s pedestrian right of way due to the lack of a curb ramp or a curb ramp
 27 that was damaged, in need of repair, or otherwise in a condition not suitable or sufficient for use.
 28 Consent Decree § 2.19. The Settlement Class seeks injunctive relief only. It does not seek damages.

1 17. Installation and Remediation of Curb Ramps: The Consent Decree ensures that the City
 2 will remediate all missing and non-compliant curb ramps by 2038. It requires the City to construct
 3 6,772 missing curb ramps and remediate 14,611 non-compliant, high priority curb ramps by the end of
 4 2030. The remaining 6,238 non-compliant curb ramps that are not considered high priority will be
 5 remediated by 2038 (collectively “Curb Ramp Construction Commitment”). Consent Decree § 4.3.
 6 On average, the City will construct or remediate 1,944 high priority curb ramps per year (more than
 7 three times the average rate of installations before the Parties commenced negotiations) between the
 8 effective date and 2030, and 807 low priority curb ramps per year between the years 2031 and 2038.
 9 Consent Decree § 5.2. All curb ramp construction and remediation will be performed in compliance
 10 with federal and state disability access standards, and will count towards the Curb Ramp Construction
 11 Commitment. *See* 28 C.F.R. §§ 35.150(a), 35.151(a), (b).

12 18. In order to ensure that the City meets the Curb Ramp Construction Commitment, the
 13 Consent Decree also requires the City to appropriate thirteen million dollars (\$13 million) each fiscal
 14 year (“Annual Monetary Commitment”) toward the construction and remediation of curb ramps within
 15 the City’s pedestrian right of way until 2030. Consent Decree § 5.1. After 2030, the City is required
 16 to appropriate a minimum of ten (10) percent of the City’s pavement budget toward the construction
 17 and remediation of curb ramps until the City fulfills its obligations under the Consent Decree. *Id.*

18 19. The Curb Ramp Construction Commitment and Annual Monetary Commitment are
 19 concurrent obligations that must each be met throughout the term of the Consent Decree. Consent
 20 Decree §§ 4 & 5. In other words, the Consent Decree requires that the City appropriate the Annual
 21 Monetary Commitment each year and meet the milestones established by the Curb Ramp Construction
 22 Commitment. The City, however, retains some flexibility in how it will remediate the curb ramp
 23 barriers identified through the survey. For example, if the City is unable to appropriate the Annual
 24 Monetary Commitment due to a recession, it will remain compliant with the Consent Decree so long as
 25 it maintains an average rate of curb ramp construction and remediation of at least 1,944 high priority
 26 curb ramps between the Effective Date through 2030 or 807 low priority curb ramps per year between
 27 2031 and 2038. *Id.* § 5.2. The City will also remain compliant if it demonstrates that the sum of the
 28 appropriations for the two previous fiscal years plus the fiscal year with appropriations below the

1 Annual Monetary Commitment is equal to three times the Annual Monetary Commitment. *Id.* Finally,
 2 the City will also remain compliant if it agrees to an additional appropriation over the next two fiscal
 3 years that is the equivalent of the difference between the Annual Monetary Commitment and the
 4 appropriation below the Annual Monetary Commitment. *Id.* § 5.2.

5 20. Additionally, the Consent Decree outlines procedures to address the unlikely possibility
 6 of elimination of two funding sources, Measure B – City of San Jose – Sales Tax, or the Road Repair
 7 and Accountability Act of 2017 (SB 1 - 2017-18 California legislative session) by local or statewide
 8 ballot measure, an act of the California State Legislature, or court order. Consent Decree § 27. As an
 9 initial step, the City must promptly notify Class Counsel of its potential inability to appropriate the
 10 Annual Monetary Commitment due to the elimination of funding from Measure B or the Road Repair
 11 and Accountability Act of 2017, and the date by which the funding will likely terminate. *Id.* § 27.1
 12 Thereafter, the City must use best efforts to find alternate funding sources to fulfill the Annual
 13 Monetary Commitment and pursuant to Class Counsel’s request, generate a written statement
 14 identifying other potential funding sources. *Id.* §27.2. If the Parties are unable to reach an agreement
 15 on the use of alternate funding sources, the Parties will attempt to resolve any disputes through the
 16 Dispute Resolution process set forth in the Consent Decree. *Id.* § 27.3. If that process is not
 17 successful, Plaintiff is entitled to discovery regarding the City’s financial status and ability to
 18 appropriate the Annual Monetary Commitment and may file a motion with the District Court to
 19 enforce or modify the Consent Decree. *Id.* § 27.4. Plaintiff may also seek court approval to terminate
 20 the Consent Decree and litigate Plaintiff’s claims on behalf of himself and the Settlement Class. *Id.* If
 21 litigation recommences, the City agrees that the currently defined Settlement Class shall be certified
 22 pursuant to Federal Rules of Civil Procedure 23(b)(2) and the City shall maintain and fund the Curb
 23 Ramp Request system through at least 2038. *Id.*

24 21. Prioritization and Transition Plan: Curb ramps constructed or remediated pursuant to
 25 the City’s program access obligation (which covers locations that are not subject to new constriction or
 26 alteration) will be prioritized pursuant to two sets of factors. First, to the extent possible, the City will
 27 prioritize the remediation of High Priority Curb Ramp Barriers. Consent Decree § 8.1. Program
 28 Access improvements will also be prioritized consistent with federal regulations as follows: a)

1 Government offices, facilities, and schools (including the pedestrian rights of way adjacent to facilities
 2 owned or operated by the City, and the paths of travel leading from such adjacent pedestrian rights of
 3 way to the primary entrances to such facilities); b) Transportation corridors; c) Hospitals, medical
 4 facilities, assisted living facilities and other similar facilities; d) Places of public accommodation such
 5 as commercial and business zones; e) Facilities containing employers; and f) Residential
 6 neighborhoods. *See* 28 C.F.R. § 35.150; Consent Decree § 8.1.

7 22. The prioritization of curb ramp construction will be set forth in the City's updated ADA
 8 Transition Plan. Within two years of the effective date of the Decree, the City Council will be
 9 presented with an amended ADA Transition Plan for adoption. Consent Decree § 10.1. This amended
 10 ADA Transition Plan will comply with 28 C.F.R. § 35.150(d) and 45 C.F.R. § 84.22(e). *Id.* § 2.24.
 11 The Transition Plan will include a schedule for accessible curb ramp construction and remediation,
 12 consistent with the terms of the Consent Decree. *Id.* § 10.1. To the extent known, the Transition Plan
 13 will also include locations of planned new construction or alterations that trigger the obligation to
 14 construct new curb ramps. *Id.* The City must also provide a draft of the updated Transition Plan to
 15 Class Counsel for review and comment at least thirty (30) days before presentation to City Council for
 16 adoption. Consent Decree § 10.3.

17 23. Curb Ramp Request Program: The Consent Decree also requires the City to maintain a
 18 program through which people with mobility disabilities may submit requests for the construction or
 19 remediation of curb ramps in specific locations throughout the City. Consent Decree § 11.1. Curb
 20 Ramp Requests can be made through an easily locatable form on the City's website that complies with
 21 Web Content Accessibility Guidelines (WCAG), telephone, electronic mail, standard mail, and other
 22 non-onerous methods for making requests. *Id.* § 11.1. Within ten (10) days of receipt, the City must
 23 notify the requestor that the request has been received. *Id.* § 11.2. The City must document each Curb
 24 Ramp Request and use best efforts to investigate each request within thirty (30) days of its submission.
 25 *Id.* § 11.3. The City will use its best efforts to construct or remediate each requested curb ramp within
 26 one-hundred twenty (120) days of submission of the request. *Id.* § 11.4.

27 24. If the City is unable to fulfill the Curb Ramp Request by the estimated date, the City
 28 must notify the requestor and provide a revised estimated date by which the Accessible Curb Ramp

1 will be constructed, remediated, or maintained. *Id.* § 11.3. Individual requests that exceed \$100,000 in
 2 estimated costs will be subject to public bidding and exempt from the 120-day deadline. *Id.* § 11.4.

3 25. Maintenance: The Consent Decree requires the City to maintain all Accessible
 4 Pedestrian Facilities over which it has responsibility, ownership or control so that those facilities are
 5 readily accessible to and usable by persons with Mobility Disabilities, except for isolated or temporary
 6 interruptions in access due to maintenance or repairs. Consent Decree § 12. If Accessible Curb
 7 Ramps are not available due to maintenance or repairs, the City must provide an alternative accessible
 8 route. *Id.* The City must identify the alternative route through signage at the subject location. *Id.*

9 26. Reporting: On an annual basis by the end of the second quarter of each fiscal year of
 10 the Consent Decree, the City will provide a written report (“Annual Report”) regarding the status of
 11 the City’s compliance with the Consent Decree. Consent Decree § 13.1. The Annual Report will
 12 include summary information detailing the number of curb ramps installed and remediated and their
 13 locations, and the number and locations of curb ramps installed or remediated via the Curb Ramp
 14 Request Program described above. Each report shall include the following information, if applicable
 15 to the reporting period: (a) dollars appropriated for Accessible Curb Ramps during the reporting
 16 period; (b) dollars expended for Accessible Curb ramps during the reporting period; (c) the number of
 17 missing curb ramps constructed during the reporting period by City forces and third parties to the
 18 extent known by the City; (d) the number of High Priority Curb Ramp Barriers remediated during the
 19 reporting period by City forces and third parties to the extent known by the City; (e) the number of
 20 Low Priority Curb Ramp Barriers remediated during the reporting period by City forces and third
 21 parties to the extent known by the City; (f) a description of the status of all pending Curb Ramp
 22 Requests received by the City during the reporting period, including applicable response times; (g) the
 23 number of non-compliant curb ramps constructed to the maximum extent feasible, or not constructed,
 24 due to Technical Infeasibility or Structural Impracticability. *Id.* § 13.1. Additionally, the City will
 25 ensure that Plaintiff and Class Counsel have access to the City’s GIS Database or equivalent databases
 26 upon Plaintiff’s reasonable request throughout the term of the Decree. *Id.* § 13.2.

27 27. Monitoring: Throughout the Term of the Consent Decree, the City is required to notify
 28 Plaintiff and Class Counsel of any changes to the City’s drawings and/or designs regarding Accessible

1 Curb Ramps and provide Plaintiff and Class Counsel with updated drawings and/or designs of the curb
2 ramps. Consent Decree § 14. Plaintiff and Class Counsel may inspect newly constructed or altered
3 curb ramps in order to monitor compliance with the Consent Decree. *Id.* Plaintiff and Class Counsel
4 are also entitled to review the City's survey database and curb ramp construction database, upon
5 reasonable request. *Id.*

6 28. Dispute Resolution: Enforcement of the Consent Decree will be subject to the
7 continuing jurisdiction of this Court. If either of the Parties believes that a dispute exists relating to
8 any violation of or failure to perform any of the provisions, that Party will first provide a written
9 statement describing the alleged violation or failure to perform with particularity, after which the other
10 Party will have ten (10) business days to provide a written response and thirty (30) days to cure the
11 alleged violation or failure to perform. Consent Decree § 16.1. If the violation or failure to perform is
12 not cured within that time frame, the Parties will meet and confer in person or by telephone and
13 attempt to resolve the dispute on an informal basis for a period of at least thirty (30) days. *Id.* If the
14 Parties are unable to resolve the dispute informally, they will engage in good faith efforts to resolve it
15 through mediation. *Id.* § 16.2. If mediation fails, then either Party may file a motion with the Court to
16 enforce the Consent Decree. *Id.* § 16.3.

17 29. Release of Class Claims: In exchange for the injunctive relief proposed in the Consent
18 Decree, Plaintiff and members of the Settlement Class shall release any injunctive, declaratory, or non-
19 monetary claims against the City that were brought, could have been brought, or could be brought now
20 or in the future by the Settlement Class relating to or arising from any of the City's alleged actions,
21 omissions, incidents, or conduct related to the installation, remediation, repair or maintenance of curb
22 ramps in the City's pedestrian right of way at any time prior to the effective date of the Consent Decree
23 through the end of the Term. Consent Decree § 18. The release excludes claims for monetary
24 damages, personal injuries or property damage with respect to unnamed Settlement Class Members.
25 *Id.* It also excludes claims based on components of the City's sidewalk system other than curb ramps.
26 *Id.*

27 30. Payments to Plaintiff Lashbrook: Subject to Court approval, the City will pay Plaintiff
28 Lashbrook a \$5,000 award in recognition of the services he rendered to the Settlement Class. Consent

Decree § 17. Class Counsel has filed a separate motion for approval of the proposed \$5,000 service award with the Court. Consent Decree § 15.5; Pls. Mot. for Service Award, ECF No. 20. Plaintiff Lashbrook will also receive a damages payment of \$50,000 in exchange for a release of all monetary claims, including actual and statutory damages claims, related to his personal encounters with non-compliant curb ramps in the City's pedestrian right of way. Consent Decree § 19.

31. Class Counsel's Attorneys' Fees, Expenses, and Costs: Plaintiff's Motion for an Award of Reasonable Attorneys' Fees, Costs, and Expenses was filed with the Court on July 10, 2020. ECF No. 21. Plaintiff seeks \$725,253.09 in reasonable attorneys' fees, costs, and expenses, which the City does not oppose. Consent Decree § 20.2. The amount that Plaintiff seeks is significantly less than the total lodestar that Class Counsel have incurred throughout this case. Since the filing of Plaintiff's Motion for an Award of Reasonable Attorneys' Fees, Costs, and Expenses, Class Counsel have expended more than an additional \$40,000 in lodestar. In total, Class Counsel have incurred a lodestar of approximately \$900,000 in this case, but will at most receive payment of \$725,253.09 in attorneys' fees and costs pursuant to Plaintiff's motion. This further demonstrates that Plaintiff's request is reasonable.

32. The City will also pay Plaintiff's reasonable attorneys' fees, costs, and expenses for work done in connection with monitoring the Consent Decree, subject to limitations specified in the Consent Decree, including a cap of \$75,000 per year for years 2020 through 2022, and a cap of \$50,000 per year for years 2023 through the expiration of the Term of the Consent Decree. Consent Decree § 21.1. The Consent Decree also provides compensation to the prevailing party for dispute resolution under civil rights jurisprudence. *Id.* § 21.4.

FAIRNESS AND ADEQUACY OF THE PROPOSED CONSENT DECREE

33. The relief provided by the proposed Consent Decree is very substantial. The Consent Decree requires the City to remediate all missing and non-compliant curb ramps by 2038. The comprehensive injunctive relief provided by the Settlement vindicates the equality, integration, and dignity mandates of the Americans with Disabilities Act.

34. Plaintiff and the proposed Settlement Class would incur significant costs and face many potential risks if the case were to proceed to trial. Litigation and trial of this matter would require the

1 expenditure of significant resources by the Parties and the Court, including resources and time spent on
2 fact and expert discovery, further analysis of data, depositions of class members, City employees, and
3 experts. For example, in *Ochoa v. City of Long Beach*, Case No. 2:14-cv-04307-DSF (FFMx) (C.D.
4 Cal.), another case challenging the inaccessibility of a city's pedestrian right of way in which my firm
5 was Class Counsel, a settlement was reached only after two-and-a-half years of contested litigation,
6 including extensive discovery and motion practice. The parties propounded and responded to hundreds
7 of discovery requests, exchanged over 30,000 pages of documents, and conducted twenty-four
8 depositions. Similarly, in *Willits v. City of Los Angeles*, Case No. CV 10-05782 CBM (C.D. Cal.),
9 another pedestrian right of way access class action in which my firm was Class Counsel, the parties
10 engaged in several years of extremely contentious litigation that involved proceedings in state and
11 federal court at the trial and appellate court levels. Before reaching a settlement, the parties
12 propounded and responded to hundreds of discovery requests, exchanged over 4 million pages of
13 documents, and conducted thirty-four depositions. Litigation of this matter would be similarly
14 protracted and costly. Additional resources would be required to complete post-trial briefing and
15 resolve any appeals. In short, this Settlement obviates the need for further costly and time-consuming
16 litigation.

17 35. Moreover, litigating and trying this case, along with possible appeals, could
18 significantly delay resolution of this matter. Based on my experience in other civil rights class actions,
19 post-trial appeals can delay final resolution of a case by several years. In contrast, under the proposed
20 Consent Decree, improvements will begin immediately. Given the importance of the accessibility of
21 the City's pedestrian right of way to the lives of Settlement Class Members, the difference between the
22 possibly long delay involved in continued litigation and the immediate improvements promised by the
23 proposed Consent Decree is an important consideration.

24 36. My firm and my co-counsel have extensive experience litigating and settling systemic
25 disability access and other complex class actions, and have particular experience litigating and settling
26 class actions involving the accessibility of municipalities' pedestrian rights of way. My colleague
27 Andrew Lee and/or I have been lead counsel in seven such class actions, including this one, and we are
28 keep abreast of developments and results in other similar actions throughout the country that have been

1 completed or are being prosecuted. In my experience and to my knowledge, this Settlement provides
2 the most comprehensive relief to date of any class action involving curb ramp installation and
3 remediation, in that it has the highest annual commitment of any settlement to date and a deadline for a
4 fully curb ramp compliant pedestrian right of way.

5 37. I have carefully assessed the risks and inherent delays that the Settlement Class would
6 face if this litigation continued. It is my professional opinion, based on my experience, that those risks
7 and delays are substantial. In light of those risks and delays, and taking into account the comparative
8 benefits provided to the Settlement Class Members through immediate remediation of the City's curb
9 ramps, it is my view that the settlement is fair, reasonable, and adequate and constitutes an excellent
10 result for the Settlement Class. The Consent Decree provides Plaintiff and the Settlement Class full
11 relief for their claims, and it is unlikely that a court would order greater relief.

12 **CONCLUSION**

13 38. As described above and set forth in the Consent Decree itself, this Settlement provides
14 extraordinary injunctive relief for the Settlement Class. Considering the totality of this relief, the
15 substantial risk and delay of continued litigation, and the importance of the accessibility of the City's
16 pedestrian right of way and its curb ramps to Settlement Class Members, the proposed Settlement is
17 fair, reasonable and adequate and should be approved by this Court.

18 I declare under penalty of perjury under the laws of the United States of America and the State
19 of California that the foregoing is true and correct, and that this Declaration was executed on August
20 28, 2020, in Oakland, California.

21 /s/ Linda M. Dardarian

22 Linda M. Dardarian
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